

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

BESSIE FLYNN	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 5:22-cv-961
	§	
COSTCO WHOLESALE CORPORATION	§	
<i>Defendant(s).</i>	§	
	§	

NOTICE OF REMOVAL

Defendant, COSTCO WHOLESALE CORPORATION INC.) (“Costco), files this Notice of Removal under 28 U.S.C. §§ 1441, 1446, and 1332, and respectfully shows the Court the following:

I.
Introduction

1.1 On July 15, 2022, Plaintiff, BESSIE FLYNN a personal injury lawsuit against Costco in the 225th Judicial District Court of Bexar County, Texas, under Cause No. 2022-CI-13289 (“the State Court Action”). *Plaintiff’s Original Petition, Ex. 1.* Ms. Flynn alleges that as she was walking in the Costco warehouse located in Selma, Texas, she slipped and fell allegedly as a result of a dangerous condition. As a result, Ms. Flynn seeks to recover damages.

1.2 The State Court Action is one over which this Court has original jurisdiction under 28 U.S.C. § 1332 and which may be removed to this Court in accordance with 28 U.S.C. § 1441. This is a civil action in which Plaintiff pleads in paragraph 15, the matter in controversy exceeds \$75,000.00, exclusive of interest and costs, and is between citizens of different states.

1.3 Service of Plaintiff’s Original Petition on Costco was completed on August 5, 2022. *See Return of Citation, Ex. 2.* Costco filed its Original Answer in the State Court Action on August 8, 2022, and its Jury Demand on August 26, 2022. *See Defendant Costco’s Original Answer, Ex. 3,*

and its *Defendant Costco Wholesale Corporation's Jury Demand Ex. 4; State Court Docket Sheet, Ex. 5.*

**II.
The Parties**

2.1 Plaintiff, BESSIE FLYNN is a Texas citizen who resided in Bexar County, Texas at the time of the accident at issue. *Plaintiff's Original Petition, Ex. 1.*

2.2 Defendant, Costco Wholesale Corporation, is a Washington corporation and its principal place of business is in Washington.

**III.
Procedural Requirements for Removal**

3.1 Removal is timely, as this Notice is filed within 30 days of Costco receipt of service of citation *See 28 U.S.C. § 1446*

3.2 Written notice of the filing of this Notice of Removal is being given to Ms. Mireles and her counsel as required by Texas law. Further, Costco is filing a copy of this Notice with the Clerk of the Court for Bexar County, Texas where Ms. Mireles' cause was originally filed. *See Costco's Notice of Filing of Notice of Removal, Ex. 6.*

Costco has submitted a copy of all processes, pleadings, and orders to this Court as required by 28 U.S.C. § 1446(a).

**IV.
Venue**

4.1 Venue in this district is proper because the Southern District of Texas, McAllen Division, includes Hidalgo County. Hidalgo County is the county where the alleged incident occurred and where the original lawsuit is pending. *Plaintiff's Original Petition, at ¶ II.*

**V,
Jurisdictional Basis for Removal**

5.1 Removal is proper pursuant to 28 U.S.C. § 1332 because there is complete diversity between the parties and the amount in controversy exceeds \$75,000.00.

5.2 First, complete diversity of citizenship exists between the parties. Plaintiff represents that she is a Texas resident. *Plaintiff's Original Petition, Ex. 1.* Costco is the only named Defendant in this lawsuit. Ms. Mireles concedes that Costco is a “foreign” entity). For these reasons, complete diversity exists, and removal is appropriate on this ground.

5.3 Second, the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

**VI.
Jury Demand**

6.1 Costco made a jury demand in the State Court Action and paid the required fee. Upon removal, Costco continues to assert its rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by jury on all issues.

Prayer

Defendant, COSTCO WHOLESALE CORPORATION prays that this Notice of Removal be deemed sufficient and that the proceedings attached hereto be removed from the 225th District Court of Bexar County, Texas to the docket of this Honorable Court.

Respectfully submitted,

SHELTON & VALADEZ, P.C.
600 Navarro, Suite 500
San Antonio, Texas 78205-1860
Telephone: (210) 349-0515
Telecopier: (210) 349-3666

By: /s/ Robert A. Valadez
ROBERT A. VALADEZ
State Bar No. 20421845
rvaladez@shelton-valadez.com
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing was forwarded in accordance with the Federal Rules of Civil Procedure on the 2nd day of September 2022, to:

Via E-Service

Jorge A. Herrera
THE HERRERA LAW FIRM, INC.
1800 W. Commerce Street
San Antonio, Texas 78207
jherrera@herreralaw.com

/s/ Robert A. Valadez
ROBERT A. VALADEZ